

STATEMENT CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(f) & 1.27(c)) - SMALL BUSINESS CONCERN

cket Number: 2907-104P

Applicant, Patentee, or Identifier: Robert Scott NIEBOER et al.

Application or Patent No.: not assigned

Filed or Issued: not assigned

Title: AUTOMATED SYSTEM FOR CONDITIONAL ORDER TRANSACTIONS IN SECURITIES OR OTHER ITEMS IN COMMERCE

I hereby state that I am

- the owner of the small business concern identified below:  
 an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF SMALL BUSINESS CONCERN 5th Market, Inc.

ADDRESS OF SMALL BUSINESS CONCERN 104 Woodmont Blvd., Suite 2001,  
Nashville, Tennessee 37205

I hereby state that the above identified small business concern qualifies as a small business concern as defined in 37 CFR Part 121 for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time, or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby state that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in:

- the specification filed herewith with title as listed above.  
 the application identified above.  
 the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each individual, concern, or organization having rights in the invention must file separate statements as to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern, or organization having any rights in the invention is listed below:

- no such person, concern, or organization exists.  
 each such person, concern, or organization is listed below.

5th Market, Inc.

Separate statements are required from each named person, concern, or organization having rights to the invention stating their status as small entities.  
(37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is not longer appropriate. (37 CFR 1.28(b))

NAME OF PERSON SIGNING Robert Scott NIEBOER

TITLE IN ORGANIZATION OF PERSON SIGNING Chief Executive Officer

ADDRESS OF PERSON SIGNING 217 Lynwood Terrace, Nashville, TN 37205

SIGNATURE

DATE 10/6/00

**PLEASE NOTE:  
YOU MUST  
COMPLETE THE  
FOLLOWING**

**ANTHONY LAWS BIRCH**

Barrett Lane, Bethesda, Maryland 20814

Telephone: (301) 652-6647 • Facsimile: (301) 657-4737

## COMBINED DECLARATION AND POWER OF ATTORNEY FOR PATENT AND DESIGN APPLICATIONS

As a below named inventor, I hereby declare that: my residence, post office address and citizenship are as stated next to my name; that I verily believe that I am the original, first and sole inventor (if only one inventor is named below) or an original, first and joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Insert Title: AUTOMATED SYSTEM FOR CONDITIONAL ORDER TRANSACTIONS IN SECURITIES OR OTHER ITEMS IN COMMERCE

Fill in Appropriate Information - For Use Without Specification Attached: the specification of which is attached hereto. If not attached hereto, the specification was filed on \_\_\_\_\_; United States Application Number \_\_\_\_\_; the specification was filed on \_\_\_\_\_ as PCT International Application Number \_\_\_\_\_; and was amended under PCT Article 19 on \_\_\_\_\_ (if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I do not know and do not believe the same was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application, that the same was not in public use or on sale in the United States of America more than one year prior to this application, that the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representative or assigns more than twelve months (six months for designs) prior to this application, and that no application for patent or inventor's certificate on this invention has been filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns, except as follows.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed	
<u>09/359,686</u> (Number)	<u>United States</u> (Country)	<u>July, 23, 1999</u> (Month/Day/Year Filed)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional applications(s) listed below.

Insert Provisional Application(s): (if any)	<u>09/359,686</u> (Application Number)	<u>July 23, 1999</u> (Filing Date)
	_____	_____

All Foreign Applications, if any, for any Patent or Inventor's Certificate Filed More than 12 Months (6 Months for Designs) Prior to the Filing Date of This Application:

Country	Application Number	Date of Filing (Month/Day/Year)
_____	_____	_____
_____	_____	_____

I hereby claim the benefit under Title 35, United States Code, §120 of any United States and/or PCT application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States and/or PCT application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to the patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Insert Prior U.S. Application(s): (if any)	<u>09/359,686</u> (Application Number)	<u>July 23, 1999</u> (Filing Date)	<u>pending</u> (Status - patented, pending, abandoned)
	<u>PCT/US00/19567</u> (Application Number)	<u>July 24, 2000</u> (Filing Date)	<u>pending</u> (Status - patented, pending, abandoned)

I hereby appoint [REDACTED] following attorneys to prosecute this application and/or an international application based on this application and to transact all business in the Patent and Trademark Office connected therewith and in connection with the resulting patent based on instructions received from the entity who first sent the application papers to the attorneys identified below, unless the inventor(s) or assignee provides said attorneys with a written notice to the contrary:

Anthony L. Birch

(Reg. No. 26,122)

Send Correspondence to:

**ANTHONY LAWS BIRCH**

6915 Barrett Lane, Bethesda, Maryland 20814

Telephone: (301) 652-6647 • Facsimile: (301) 657-4731

**PLEASE NOTE:  
YOU MUST  
COMPLETE  
THE  
FOLLOWING:**  
↓

Full Name of First  
or Sole Inventor:  
Insert Name of  
Inventor  
Insert Date This  
Document is Signed  
→

Insert Residence  
Insert Citizenship  
→

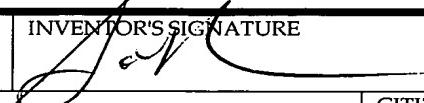
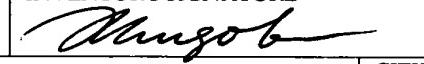
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Address  
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Full Name of Second  
Inventor, if any:  
see above

Name of Third  
Inventor, if any:  
see above

Name of Fourth  
Inventor, if any:  
see above

Full Name of Fifth  
Inventor, if any:  
see above

GIVEN NAME/FAMILY NAME Robert Scott NIEBOER	INVENTOR'S SIGNATURE 	DATE* 10/16/00
Residence (City, State & Country) Nashville, Tennessee; USA	CITIZENSHIP USA	
POST OFFICE ADDRESS (Complete Street Address including City, State & Country) 217 Lynwood Terrace, Nashville, TN 37205		
GIVEN NAME/FAMILY NAME Pedro (Peter) V. BALCARCE	INVENTOR'S SIGNATURE 	DATE* 10/16/00
Residence (City, State & Country) Antioch, Tennessee, USA	CITIZENSHIP USA	
POST OFFICE ADDRESS (Complete Street Address including City, State & Country) 1617 Maple Timber Court, Antioch, TN 37013		
GIVEN NAME/FAMILY NAME Ivan N. Zhidov	INVENTOR'S SIGNATURE 	DATE* 10/10/2000
Residence (City, State & Country) Nashville, Tennessee, USA	CITIZENSHIP Russia	
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GIVEN NAME/FAMILY NAME Micah James ELDRED	INVENTOR'S SIGNATURE 	DATE* 10/18/2000
Residence (City, State & Country) Nashville, Tennessee, USA	CITIZENSHIP USA	
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GIVEN NAME/FAMILY NAME	INVENTOR'S SIGNATURE	DATE*
Residence (City, State & Country)	CITIZENSHIP	
POST OFFICE ADDRESS (Complete Street Address including City, State & Country)		